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SENSITIVE
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STATE FOR PM AND EUR

E.O. 12958: N/A
TAGS: [ETTC](#) [KOMC](#) [FR](#)
SUBJECT: FRENCH EXPORT CONTROLLER ON END USE ASSURANCES

REFS: PM/RSAT/TUCKER Email 2/25/2009 4:57 PM

¶1. This is an Action Cable for PM/RSAT

¶2. (SBU) Summary: The GOF is prepared to provide end-use assurances (EUA) for encryption products temporarily transferred to private French manufacturers and service providers, in the context of the NATO accord covering special treatment for encryption products. GOF reluctance to sign the required assurances has stemmed from uncertainty about the scope of this requirement, e.g., whether it will be requested for other ITAR items. End Summary.

¶3. (SBU) ACTION REQUEST: Prompt clarification on the items for which the GOF must sign an EUA is requested, as GOF will review this matter March 20.

ENCRYPTION IS A SPECIAL CASE

¶4. (SBU) On March 17, we paid a call on the French MOD Export Control Coordinator, BG Patrick Fermier, to obtain background on French reluctance to provide end-use assurances for the MDS chips contained in UK A400M aircraft during French subcontractor work on the system. Fermier said the French MOD is prepared to provide end-use assurances for encryption/encryption products transferred to private French manufacturers and service providers, in the context

of the NATO accord covering special treatment for encryption products. It accepts its obligation under the accord and has a comprehensive tracking and accountability system in place that makes GOF assurances concrete and meaningful.

ASSURANCES ON OTHER ITAR ITEMS ONLY IF GOF IS END-USER

¶5. (SBU) The GOF will continue to provide assurance of non-transfer and use (DSP-83) for all ITAR-equipment for which it is the end-user. However, it is not prepared to provide assurances for other ITAR equipment handled by private manufacturers and service providers in France. The GOF lacks the statutory and logistical basis for tracking all such U.S.-controlled items, Fermier explained. In cases not pertaining to encryption, it is up to the private companies to provide the end-use assurances.

SIDE LETTER (OR LANGUAGE) NEEDED

¶6. (SBU) Fermier acknowledged that a former French defense cooperation attach in Washington had signed assurance texts, but without explicit authorization of the GOF. Signatures of EUAs were suspended, he said, when Paris became aware of this "new formality" because its scope was unclear to the GOF. Fermier stated that if there were a side letter or other mechanism to clarify that the EUA document was signed in the context of the NATO encryption agreement, under which NATO countries agreed to track controlled encryption items on their territory regardless of their use, the GOF would be able to sign the EUA. It would be "illegal" to sign such assurances for other ITAR items where the GOF was not the end-user, he said.

¶7. (SBU) Fermier informed us that the General Secretariat for National Defense, at the Prime Minister's Office, would be reviewing this matter in a meeting on Friday, March 20. He asked that we seek clarification of the scope of application of the EUA requirement. He said he wants a resolution to this matter and, if necessary, is ready to come to Washington to discuss it.

PEKALA